APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,238	10/23/2003	Huamin Chen	YOR920030422US1	1434

7590   04/30/2008

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EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2157	

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04/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/693,238*	CHEN ET AL.
	Examiner	**Art Unit**	
	El Hadji M. Sall	2157	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>31 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>none</u>.

   Claim(s) objected to: <u>none</u>.

   Claim(s) rejected: <u>1-37</u>.

   Claim(s) withdrawn from consideration: <u>none</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

  /Ario Etienne/
  Supervisory Patent Examiner, Art Unit 2157

Continuation of 11. does NOT place the application in condition for allowance because:

     (A)   Applicant argues that Goodman has absolutely nothing to do with serving data to a plurality of clients wherein requests are satisfied so that a client belonging to a high quality-of-service class is given preferential access to data versions which require higher overheads to serve (e.g., higher quality content).
In regards to the point (A), Examiner respectfully disagrees.
     Column 25, 3-21, Goodman discloses …define explicit criteria for assigning priority; consider raising the priority of low-priority opportunities that can be completed quickly (i.e. raising the priority to high-priority to "give preferential access to data versions which require higher overheads")….This portion of Goodman clearly discloses that requests are satisfied so that a client belonging to a high quality-of-service class is given preferential access to data version which require high overheads to serve (i.e. activities such as "satisfying requests" can be completed quickly).

     (B)   Applicant argues that Goodman clearly does not indicate that such multiple versions have different overheads associated with them.
     In regards to the point (B), Examiner respectfully disagrees.
     Column 69, lines 15-18, Goodman discloses…data management tools provide backup and restore facilities for data, and also provide configuration management for multiple versions of data (i.e. more than two version having different overheads associated with them), maintaining consistency among versions of test data

     (C)   Applicant argues that it is clear that Goodman only discloses prioritized handling of entire classes of traffic. Goodman does not disclose assigning individual clients to different quality of service classes. It can be understood that Goodman does not disclose quality of service classes either.
     In regards to the point (C), Examiner respectfully disagrees
     Column 99, lines 52-61, Goodman discloses the quality of service services 244 may also use data prioritization to improve network performance. While not an example of end-to-end QoS, various network components can be configured to prioritize their handling of specified types of traffic (i.e. "assigning individual clients to different quality of service classes"). For example, routers can be configured to handle legacy mainframe traffic (SNA) in front of other traffic (e.g., TCP/IP). A similar technique is the use of prioritized circuits within Frame Relay, in which the Frame Relay network vendor assigns different priorities to different permanent virtual circuits. Goodman discloses assigning individual clients to different quality of service classes.